The Solicitors' Journal

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CONTENTS

CURRENT TOPICS

Lord Thankerton

THE death of the senior Lord of Appeal in Ordinary, LORD THANKERTON, on 13th June, at the age of seventy-four, leaves a gap in the highest appellate court which it will be hard to fill. He was not only profoundly versed in Scots law, but had mastered English law and become familiar with the complex laws of India for the purpose of his duties on the Judicial Committee of the Privy Council. He was a pleasant and kindly judge to appear before, and not the less so because of his love of an argument. This was not due to any "contrariness" in his nature, but because of his earnest desire to attain the truth so far as lay in human capacity to do so. His father was Lord Watson, also a Lord of Appeal in Ordinary, and in that respect he evokes comparison with Lord Russell of Killowen, also an appeal lord and son of an appeal lord. He was admitted as an advocate in Scotland in 1899 after an education at Winchester and Jesus College, Cambridge. In 1922 he became Solicitor-General, and in 1923 Lord Advocate. In 1929 he was made a Lord of Appeal in Ordinary.

Mr. Justice Slade

WE tender our congratulations to Mr. G. O. SLADE, K.C., on his promotion to the Bench of the High Court. As nearly always happens when a famous advocate decides to forsake the hurly-burly of acting for clients for the serene if not less strenuous activities of the Bench, a great loss to the Bar is a great gain to the Bench. Only a few days before his appointment to the High Court Bench it was announced that the General Council of the Bar had appointed him their chairman for a second year in succession. Of his many feats it is only necessary to recollect his dignified conduct of the defence of Joyce, a case which above all others required the masterly and delicate touch which Mr. Slade possesses. Public recognition of his gifts had already been accorded him. He took silk in 1943, having been Chancellor of the Diocese of Chelmsford since 1934, and in 1939 he was appointed chairman of the Lord Chancellor's Committee on the Law of Defamation. To his other high qualities is added that of youth in its best sense. Mr. Slade is fifty-six and has many years of public service in front of him. His appointment fills the vacancy created by the retirement, through ill-health, of Mr. Justice HENN-COLLINS, who was appointed to the Bench in 1937 and transferred from the Probate and Divorce Division to the King's Bench Division in 1945. All his friends will wish him happiness in his retirement and a speedy restoration to health.

Town and Country Planning

IMPORTANT regulations prescribing the principles to be followed by the Central Land Board in determining development charges and detailing exemptions from these charges have now been made and approved by resolution of each House of Parliament. They are the Town and Country Planning (Development Charge) Regulations, 1948 (S.I. 1948 No. 1189), and the Town and Country Planning (Development Charge Exemptions) Regulations, 1948 (S.I. 1948 No. 1188). The effect of the Development Charge Regulations is, except in special cases, to require the whole and not part only of any increase in value of land attributable to a planning permission to be paid to the Central Land Board by way of a development charge so as to secure that land can be freely bought and sold in the open market at existing use value. The Exemption Regulations detail a considerable number of types of development of a minor nature which are exempted from payment of a charge. An article at p. 329 of this issue discusses the position more fully. The Town and Country Planning (Enforcement of Restriction of Ribbon Development Acts) Additional Regulations, 1948, have also been made and come into operation on 1st July, 1948. These preserve conditions imposed on consents to building and access under the Restriction of Ribbon Development Act, 1935, notwithstanding the repeal of the relevant parts of this Act on 1st July, 1948, by making them enforceable as if they had been imposed in a planning permission under the Town and Country Planning Act, 1947. Temporary development exempted from enforcement action under the 1935 Act by the Restriction of Ribbon Development (Temporary Development) Act, 1943, will be treated as if it were the subject of a limited period planning permission.

Publicity and the Town and Country Planning Act

THE Ministry of Town and Country Planning have issued a circular to local authorities (circular No. 49, dated 10th June) stating that a leaflet (P.R.2), dealing briefly with the effect of the Town and Country Planning Act on private developers and landowners, will be supplied shortly to local authorities for free distribution to inquirers. The circular also states that a poster, warning people not to buy or sell land until they have found out their position under the Act, is in preparation and is to be supplied to local authorities. The Central Land Board has also been active in publicising the effects of the Act, and in addition to leaflets already issued, its chairman, Sir MALCOLM TRUSTRAM EVE, K.C., held a Press conference on 15th June at which he explained the working of the Act for the information of property owners.

Respect for Law

LORD JOWITT made a highly significant pronouncement of belief at the opening of the University of London Institute of Advanced Legal Studies on 11th June (p. 338, *post*). He believed that the respect which the people of this country showed to law and order was our greatest guarantee for getting through difficult times, and the legislator should remember that when he piled one law upon another he might endanger that respect. It is good to know in these difficult times of transition from war to peace, when the shedding of one control or the adding of another almost invariably arouses acute controversy, that in the person of the Government's highest legal adviser there is one who bears in mind fundamental principles which can only be ignored at great peril. It cannot be doubted that it is not only the shortage of police that has increased lawlessness, although, as stated in the Chief Commissioner's recent report, it has been a potent encouragement to crime. The fact is that there are too many ways of breaking the law with profit, ways which no number of police can or ought to be asked to block. There can be little respect for a law which cannot be enforced. The most direct road to anarchy was always paved with an abundance of ordinances.

In Praise of Judges

HIS Honour Judge E. H. C. WETHERED, according to a report in the *Sunday Express* of 13th June, baffled some of Britain's best magicians at King George's Hall, Great Russell Street, on 12th June. He was the last performer in an "evening of mystery" organised by the Magic Circle, of whose Inner Circle he is a member. It is a sufficient wonder to the layman that a judge should possess the "sleight of mind" required for sorting out and summing up clearly and coherently the details of evidence after hearing them for the first time. To possess the gift of sleight of hand in addition may be thought to constitute a double miracle. Perhaps it is only a coincidence that Dr. Johnson's Dictionary (1877 edition) defines "conjure" as meaning primarily "to summon in a sacred name," for the law can boast of eminent sons—even county court judges—who have been versatile in other ways. There are, for example, the late FRED WEATHERLEY, writer of "Roses in Picardy" and other famous songs, also a county court judge; Sir ERNEST ARTHUR JELF, formerly King's Remembrancer and Senior Master of the King's Bench Division, who writes children's ballets and fairy stories; His Honour Judge GAMON, an Oxford double first who excels in carpentry and lent his services on half-time to a factory to aid the war effort a few years ago; and His Honour Judge ENGELBACH who won the Public Schools Gymnastic Championship in 1898 and the All England Men's Doubles Badminton Championship in 1920. We mention these instances not in disparagement of His Honour Judge Wethered's achievement in the realm of magic, but in praise of the versatility of our county court judges and other eminent lawyers.

The International Bar Association

IT is not well enough known in this country that the International Bar Association is wider in the scope of its membership than its name would seem to indicate. Here the Bar is a distinct profession, but it is so in few other countries, and membership of the association is open to national organisations of members of the legal profession of any nation, country, self-governing dominion, trust territory or colony. "Members of the legal profession" is defined to mean "persons versed in the laws or practitioners of law, including attorneys, counsellors, solicitors, barristers, advocates, judges and professors of law." As mentioned in our "Notes and News" of 12th June, the Secretary-General, AMOS J. PEASLEE, has given notice that the second conference of the association will be held in the Palace of Peace at the Hague during the week 16th August to 21st August. The two principal topics selected for the conference are: (1) restoration of the law and property rights after World War II; and (2) an international code of ethics for lawyers. Fourteen symposia, or round-table discussions have been arranged on topics arising out of these subjects, including air law, legal education, legal aid and governmental interference with the legal profession. The Nederlandse Advocaten-Vereniging is to be host and the fullest arrangements have been made for both public and private hospitality for those wishing to attend, who should make their arrangements as early as possible.

Resealing of Northern Irish or Colonial Grants: Photographic Copies

A USEFUL amendment of the Non-Contentious Probate Rules comes into operation on 21st June. By the Non-Contentious Probate Rules, 1948 (S.I. 1948 No. 1204), photographic copies of the record of the resealing in England of a Northern Irish or Colonial grant may be sealed with the small seal of the court notwithstanding that they have not been certified to be examined copies. By s. 174 (2) of the Judicature Act, 1925, as amended by the Administration of Justice Act, 1932, s. 4, such photographic copies may be received in evidence without further proof, and by s. 69 of the Companies Act, 1929 (cl. 82 of the Consolidation Bill now before Parliament), they must be accepted by a company as sufficient evidence of the grant, notwithstanding anything in the company's articles.

Recent Decisions

In *Chappell* v. *Dagenham Corporation*, on 2nd June (*The Times*, 3rd June), JONES, J., held that where, owing to the highway wearing away around a metal box placed in the pavement by an electricity company in 1937, the box projected above the surface of the highway and a pedestrian was injured as a result of stumbling over it, the highway authority was not liable in damages to the pedestrian, because it was only liable for misfeasance and not for non-feasance, such as this in fact was. Jones, J., held that *Thompson* v. *Brighton Corporation* [1894] 1 Q.B. 332, in which Lindley, L.J., said that the law, though unsatisfactory, was clear, was binding on him.

In *R. F. Fuggle, Ltd.* v. *Gadsden*, in the Court of Appeal (the MASTER OF THE ROLLS and WROTTESLEY and EVERSHED, L.JJ.), on 9th June (*The Times*, 10th June), it was held that a landlord reasonably required a house for occupation as a residence for a person engaged in his full-time employment within para. (*g*) of Sched. I to the Rent, etc., Restrictions (Amendment) Act, 1933, although the person for whose occupation the house was required fell ill and had to undergo an operation and commenced work several weeks after the agreed date, with the result that the action for possession was heard the day before he commenced work. Their lordships further held that, in reviewing whether it was reasonable to make the order, they could not take into account the fact that since the hearing the employment had been terminated, and that there was ample evidence that it was reasonable at the time of the order.

LYNSKEY, J., on 10th June (*The Times*, 11th June), held in an action against a dentist that the fracture of a patient's jaw in the course of extracting a tooth was not in itself any evidence of negligence against the dentist.

In *Mediterranean and Eastern Export Company, Ltd.* v. *Fortress Fabrics (Manchester), Ltd.*, on 11th June (*The Times*, 12th June), the LORD CHIEF JUSTICE held: (1) that where a commercial arbitrator awarded damages for non-acceptance of goods when claimants had asked for the "value" of the goods, that was no ground for setting aside the award, as it was within his jurisdiction so to award; and (2) that the fact that there was no evidence tendered by either party with regard to damage, though possibly a formidable or even fatal objection in some arbitrations, was not so in this, because the arbitrator was chosen for his knowledge and experience of the trade concerned and of the fluctuations of the market. The award was upheld.

DEVELOPMENT CHARGES—I

BOTH Houses of Parliament have now approved the Town and Country Planning (Development Charge) Regulations, 1948, and the Town and Country Planning (Development Charge Exemptions) Regulations, 1948, which come into operation on the 1st July, 1948. Owners will now have more idea of the figure which they will have to pay to the Central Land Board as a development charge, and prospective developers who do not at present own land of the figure which they can afford to pay for the land.

Section 69 of the Town and Country Planning Act, 1947, makes a development charge payable in respect of all operations and uses for which a planning permission is required with certain exceptions. To decide whether a charge is payable at all the reader must first ask himself :—

(1) Is planning permission required? This is decided by reference to s. 12 and the Town and Country Planning (Use Classes) Order, 1948. (For this order see 92 SOL. J. 277.) The fact that no application for permission need be made to a local planning authority because either it is deemed to be granted by s. 77 or is granted by the Town and Country Planning (General Development) Order, 1948 (92 SOL. J. 277), does not itself exempt the development from charge. In these two cases planning permission is none the less required but is given in the one case by the Act, in the other by the Order. If no planning permission is required no charge is payable. If permission is required, whether it is given by s. 77, by the Order, or must be applied for, the reader must ask the further question :—

(2) Is the proposed development exempted by—

(*a*) any of the special case provisions in Pt. VIII of the Act, e.g., s. 78 (Unfinished Buildings) or s. 80 (Ripe Land);

(*b*) Sched. III to the Act, including the Town and Country Planning (Use Classes for Third Schedule Purposes) Order, 1948; or

(*c*) the Town and Country Planning (Development Charge Exemptions) Regulations, 1948 (which will be discussed later)?

This may seem rather a complicated calculation but practice will, no doubt, make it easy.

Having made this decision, the reader must ask himself, in a case where a charge is payable, on what basis it is calculated and what the procedure is for ascertaining it.

The basis is laid down in s. 70 (2), which provides that the Central Land Board, the authority which determines the amount of the charge, shall have regard to the amount by which the value of the land, with the benefit of planning permission for the particular operation or use applied for and granted, exceeds the value without such permission and, subject to this, s. 70 (3) enables regulations to be made prescribing general principles to be followed by the Board in determining the charge. The first set of regulations mentioned at the beginning of this article are the regulations made under s. 70 (3) and they prescribe the following principles :—

1. "Development charge shall be determined so as to secure, so far as is practicable, that land can be freely and readily bought and sold or otherwise disposed of in the open market at a price neither greater nor less than its value for its existing use. This object is the Governing Principle by which the Board are to be guided in determining development charge."

2. "Development charge shall be not more than the amount which, to the satisfaction of the Board, represents the additional value, measured by normal processes of valuation, of the land due to planning permission for a particular development."

3. "Development charge shall not be less than the amount referred to in paragraph 2 of this Schedule unless in the opinion of the Board the charge ought properly to be less in order to comply with the Governing Principle."

4. "Where in the special case of any land of a class referred to in Part VIII of the Act (which provides for the application of the Act to special cases) the application of the foregoing principles would, in the opinion of the Board, be inappropriate, the Board shall apply the Governing Principle subject to such modification as is in their opinion appropriate to that special case."

These principles are not at first sight easy to understand, but their effect appears to be as follows :—

The Board are to charge 100 per cent. of the increase in value of land attributable to a planning permission, neither more nor less, so as to secure that land can be bought and sold at existing use value. In a very few cases, however, to secure this result (and the Minister is of opinion they will be very few and is unable at present to say what kind of case they will be) the Board may charge less than 100 per cent. of this increase either directly by lowering the percentage or indirectly by adjusting the normal processes of valuation. In Pt. VIII cases, such as land held by local authorities, the Board have full discretion.

There was a widespread belief that the development charge would be fixed at less than the development value, say 80 per cent. of this value, thus leaving some incentive to induce an owner to sell land for development. This has not happened.

In one respect the regulations are not what were expected. It had been thought, and indeed it was the Minister's own thought, that the regulations would enable the Board to exercise discretion in particular types of case (not between particular applicants), e.g., in a depressed area where it was desired to encourage development the charge would be fixed at a lower percentage. The regulations made do not give the Board such a discretion (except so far as para. 3 may give it in very exceptional cases) as it is considered that the normal processes of valuation will themselves provide sufficient flexibility: thus in a depressed area where there is little competition for land the development value will by these processes naturally be lower than in a prosperous area where there is much competition for land.

It should be made clear here that (1) the charge is only payable on increases in value attributable to a planning permission. If the existing use value increases naturally either because of a rise in land values generally or because of a rise in a particular locality—e.g., where a town is expanded the existing use value of the centre business area may well increase—the owner will enjoy the increase; (2) if the owner finds a purchaser willing to pay more than existing use value (a purchaser might, for example, be specially attracted to a particular site) there is nothing to stop him selling at the higher price and retaining the whole for his use. It is the purchaser who will be the loser.

It might be thought from the last proposition that there will be many cases where land will be sold over existing use value or where an owner might be tempted to hold out for more than this value, e.g., a building developer might be prepared to pay more if he can pass it on in the prices at which he sells his houses. What are the sanctions against this? First, selling prices of houses are at present fixed under building licensing controls; second, the extended powers of compulsory purchase for development given by the Act to local authorities and third, the provisions (s. 49) which enable a prospective private developer to apply to the Central Land Board to buy land compulsorily and sell it to him at a price including the development charge, though it seems doubtful whether the Board will exercise these powers at present except where an owner is clearly acting against the public interest. It is understood the Minister of Health will make a statement shortly on private building including the manner in which the cost of land and development charge will be dealt with.

It remains to consider an important category of land which has given some readers much concern. This is land which was laid out and serviced or partially serviced with roads, sewers, etc., but on which the building development due to the war or other reasons has not been carried out and which is not

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It might be thought from the last proposition that there will be many cases where land will be sold over existing use value or where an owner might be tempted to hold out for more than this value, e.g., a building developer might be prepared to pay more if he can pass it on in the prices at which he sells his houses. What are the sanctions against this? First, selling prices of houses are at present fixed under building licensing controls; second, the extended powers of compulsory purchase for development given by the Act to local authorities and third, the provisions (s. 49) which enable a prospective private developer to apply to the Central Land Board to buy land compulsorily and sell it to him at a price including the development charge, though it seems doubtful whether the Board will exercise these powers at present except where an owner is clearly acting against the public interest. It is understood the Minister of Health will make a statement shortly on private building including the manner in which the cost of land and development charge will be dealt with.

It remains to consider an important category of land which has given some readers much concern. This is land which was laid out and serviced or partially serviced with roads, sewers, etc., but on which the building development due to the war or other reasons has not been carried out and which is not

qualified for a ripe land certificate under s. 80. How is the cost of laying out the land with these services to be recovered? The regulations do not provide for the cost to be deducted from the charge. Is the existing use value of the land only agricultural, leaving the cost of these services to be recovered in a claim for depreciation against the £300,000,000 fund, or may it be considered to have a higher value than agricultural, thereby decreasing the amount of the development charge? The answer appears to be that its existing use value must be treated as agricultural, the cost of the services claimed on a depreciation claim and a development charge paid for the difference between agricultural and building value. The cost will receive special treatment on the lines of the treatment accorded to the cost of "near ripe" land itself (91 SOL. J. 200). In the debate on the regulations the Minister of Town and Country Planning stated that so far as he was concerned this kind of cost would be taken into account when the scheme for the distribution of the £300,000,000 was made and he recognised that in one way or another account ought to be taken of any expenditure on the land. Nobody, he stated, would wish to deprive the owner of land of any of the benefit from any expenditure he has incurred on it.

While this article has referred mainly to building operations it must be remembered that the definition of development is very wide and includes other operations and also material changes of use. In the second part of the article the procedure for the determination of a development charge will be explained and the exemptions contained in the second set of regulations referred to at the beginning of this article examined.

R.N.D.H.

CHEQUES "IN FULL SETTLEMENT"

IN business it sometimes happens that a trader receives from an impecunious or dissatisfied customer a cheque for a sum less than the amount owed by the latter, with an accompanying intimation that the cheque is "in full settlement." The recipient's reaction is likely to be conditioned by his knowledge of the circumstances of the original transaction and of the debtor's financial position, but he may wish to take one of three courses, viz. (1) to return the cheque and insist on payment in full; (2) to accept the cheque in full settlement in accordance with the debtor's offer; or (3) to take the cheque on account and insist on payment of the balance of the debt.

There is no doubt that he may properly adopt the first course without prejudicing his right to recover the full debt, for he is under no obligation to accept the debtor's offer or to accept a payment on account. If, however, he adopts the second course, it is now well settled that the acceptance of the cheque in full settlement will amount to a complete accord and satisfaction, discharging the debtor's liability and putting it out of the power of the creditor to sue for the balance of the debt. This is an application of the rule in *Pinnel's* case (1602), 5 Co. Rep. 117*a*, which, in the words of Coke's Report, is as follows: "Payment of a lesser sum on the day in satisfaction of a greater cannot be any satisfaction for the whole, because it appears to the judges that by no possibility a lesser sum can be satisfaction to the plaintiff for a greater sum: but the gift of a horse, hawk or robe, etc., in satisfaction is good." The rule has been criticised by the bench (see, for example, the comments of Sir George Jessel, M.R., in *Couldery* v. *Bartrum* (1881), 19 Ch. D. 394, 399, and of Lord Blackburn in *Foakes* v. *Beer* (1884), 9 App. Cas. 605, 622). Nevertheless, the rule is firmly established and was expressly affirmed by the House of Lords in *Foakes* v. *Beer*. The rule is complied with, however, if the debtor offers some consideration for the relinquishment of the balance of the debt and a line of cases, of which *Goddard* v. *O'Brien* (1882), 9 Q.B.D. 37, may be cited as an example, shows that a negotiable instrument such as a cheque, though for a less amount, may be a good discharge.

The foregoing observation is subject to the qualification that the cheque must be given *and accepted* for the express purpose of making a good accord and satisfaction. This qualification is important in considering the position if the creditor adopts the third course mentioned above, i.e., takes the cheque on account and then claims payment of the balance of the debt. Circumstances of this kind were before the Court of Appeal in *Day* v. *McLea* (1889), 22 Q.B.D. 610. The action was one for the recovery of damages for breach of contract in not accepting certain machinery. Before the action was brought, but after the breach, the defendants had sent to the plaintiffs a cheque for less than the plaintiffs' claim. It was accompanied by an intimation that it was "in full of all demands," and a receipt in that form was also enclosed for signature by the plaintiffs. The latter then replied that they accepted the cheque "on account" and enclosed a receipt similarly worded, at the same time demanding a cheque for the balance. In the court below, the judge had found as a fact that there was no accord and satisfaction, and the Court of Appeal affirmed his decision in favour of the plaintiffs. Bowen, L.J., pointed out that, if a cheque is sent upon the terms that it is to be taken in satisfaction of a larger claim, then, even if the cheque is kept, it is still a question of fact as to the terms upon which it is kept, for accord and satisfaction really imply an agreement to take the cheque upon the terms upon which it is sent. As it is a question of agreement, there must be either two minds agreeing (a question of fact) or one of two persons acting in such a way as to induce the other to think that the cheque is taken in satisfaction and to cause him to act on that view (again a question of fact).

While, in *Day* v. *McLea*, the mere fact that the plaintiffs had cashed the cheque sent "in full of all demands" was not by itself sufficient to create an estoppel against the plaintiffs, it may very well be that other circumstances will cause the second branch of the rule to operate. For example, if the creditor at once cashes the cheque and afterwards tells the debtor that he has not taken it in full settlement but on account, it is arguable that, by adopting such a course of conduct, the creditor has acted "in such a way as to induce the other to think that the cheque was taken in satisfaction and caused him to act on that view" to the extent of allowing his bankers to meet the cheque. The question whether the cheque was taken in satisfaction or whether the creditor acted in such a way as to induce the debtor to think that it was so taken is one of fact, and the finding on this question will not be interfered with on appeal. In *Day* v. *McLea*, the finding of the judge in the court below that the creditor had not taken the cheque in satisfaction was upheld in the Court of Appeal. Similarly, the finding of fact on this question by the court of first instance was sustained on appeal in *Bidder* v. *Bridges* (1888), 37 Ch. D. 406. As the finding in this case was that there had been "satisfaction," it forms a contrast to *Day* v. *McLea*, and its facts may usefully be examined. The defendant had been awarded costs in the action and these had been duly taxed. To save the cost of filing the taxing certificate, the plaintiff's solicitors offered their own cheque for the amount of the taxed costs, less £1, the charge for filing. The defendant's solicitor accepted this cheque and handed over the taxing certificate endorsed with a receipt "for costs £x, less £1 remitted." Later, it was discovered that the amount received did not include interest on the costs from the date of the judgment. The defendant, therefore, moved for an order directing the plaintiff to produce the certificate to the proper officer so that execution might issue for the interest on the costs thereby certified to be due. Stirling, J., held that there had been a perfectly plain and honest transaction on both sides, resulting in an agreement that the certificate was not to be filed: he therefore dismissed the motion. The Court of Appeal affirmed his decision, holding that the agreement was adequately supported by consideration, viz., the plaintiff's solicitors' cheque; consequently, the transaction

effected an accord and satisfaction of the defendant's claim under the certificate for both costs and interest.

It seems, therefore, that, when a creditor receives from his debtor a cheque for an amount less than the full amount due and expressed to be "in full settlement," he will be well advised, if he wishes to preserve his right to sue for the balance, not to cash the cheque at once. The better course is to inform the debtor that the creditor refuses to accept the condition imposed and that he proposes to accept the cheque on account only. If he then waits a day or two until it is reasonably certain that the debtor has received his letter and has thus had an opportunity of instructing his bankers to stop payment of the cheque, the creditor may cash the cheque and will be able, it is submitted, to resist successfully, in subsequent proceedings for recovery of the balance, any attempt by the debtor to prove accord and satisfaction.

H. R.

Company Law and Practice

INVESTIGATIONS BY THE BOARD OF TRADE

THE new Companies Act has increased the powers of the Board of Trade in several respects. The Board has been granted new or additional powers in the following matters: the calling of annual general meetings, the appointment of auditors, the choice of companies' names, the registration of directors' shareholdings, in matters of accountancy, and in the investigation of the affairs of companies. As regards accountancy in particular, the Board now has power under the Companies Act, 1947, s. 120, to alter or add to the requirements of the Act as to matters to be stated in a company's balance sheet, profit and loss account, and group accounts. This provision has the great advantage of making allowance for changes in methods of accountancy without having to pass a new Act. By far the most important of these new provisions, however, are those that relate to the investigation of a company's affairs by the Board of Trade.

The power which the Board possessed under the Companies Act, 1929 (s. 135), to carry out these investigations was largely ineffective. This was due to the following reasons: first, an application to the Board to appoint an inspector had to be made by the holders of one-tenth (and in the case of a banking company, one-third) of the issued shares of the company concerned. Such an aggregate was very hard to assemble, especially in the case of large companies with thousands of shareholders, and even then the powers of the Board were only permissive. Secondly, the applicants had to establish that they were not actuated by malicious motives in requiring the investigation. The result was that during the years 1930–44 only seventy applications were made altogether, and of these only nine resulted in the appointment of inspectors.

The Companies Act, 1947, s. 42, provides that the Board may appoint an inspector on the application of not less than 200 members, and that there shall no longer be any difference between banking and other companies. Further, it is no longer necessary to produce evidence that the applicant is not actuated by malicious motives. Under the new Act it is now obligatory for the Board to appoint an inspector where a company has passed a special resolution demanding such appointment, or where the court has so ordered; but over and above this the Board of Trade has wide discretionary power to appoint an inspector if it appears to the Board that there are circumstances suggesting—

> "(i) that the company's business is being conducted with intent to defraud its creditors or the creditors of any other person, or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive of any part of its members, or that it was formed for any fraudulent or unlawful purpose;
>
> (ii) that persons concerned with its formation or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards it or towards its members; or
>
> (iii) that its members have not been given all the information with respect to its affairs which they might reasonably expect."

It will be seen that this provision gives the Board a very wide discretion; its effectiveness will no doubt depend on the extent to which it is used, and also as suggested by the Cohen Report in the following terms: "In many cases the appointment of an inspector would, we hope, prove unnecessary, as the knowledge of the wide powers possessed by the Board of Trade might cause the directors, on representations from the Board of Trade, to meet the grievance of the shareholders."

Further powers are bestowed on the Board by ss. 46, 47 and 48 of the Companies Act, 1947. These provisions are in effect a substitute for the original nominee clauses which were deleted by the House of Lords because they were unworkable. It is now generally admitted that these sections are more likely to be effective than the original nominee clauses would have been. Briefly these provisions have the following effect:—

(1) Section 46 provides that where it appears to the Board of Trade that there is good reason so to do they may appoint an inspector to investigate and report on the membership of any company, and otherwise with respect to the company, for the purpose of determining the true persons who are or have been financially interested in the success or failure (real or apparent) of the company or able to control or materially to influence its policy. An inspector *must* also be appointed under this section on the application of not less than 200 members (see Consolidating Bill, 1948, cl. 172 (3)). The inspector has power to investigate "any circumstances suggesting the existence of an arrangement or understanding, which, though not legally binding, is or was observed or likely to be observed in practice . . ."

(2) Section 47 provides further that where it appears to the Board of Trade that there is good reason to investigate the ownership of any shares in or debentures of a company, and that it is unnecessary to appoint an inspector for the purpose, they may require any person whom they have reasonable cause to believe "(*a*) to be or to have been interested in those shares or debentures, or (*b*) to act or to have acted in relation to those shares or debentures as the solicitor or agent of someone interested therein" to give them any information "which he has or can reasonably be expected to obtain as to the present and past interests in those shares or debentures, and the names and addresses of the persons interested and of any persons who act or have acted on their behalf in relation to the shares or debentures." Heavy penalties are imposed for failure to give the required information or for giving false information, but it will be noted that under s. 49 no solicitor is bound to disclose to the Board of Trade or its inspector any privileged communication made to him in that capacity except as regards the name and address of his client. Some protection is also extended to bankers under s. 49 (*b*).

(3) Should the Board of Trade in the course of an investigation under s. 46 or s. 47 encounter any difficulty in finding out the relevant facts about any shares or debentures, and in the opinion of the Board this difficulty is due wholly or mainly to the unwillingness of the persons concerned to assist the investigation, the Board has wide powers under s. 48 to impose restrictions on these shares or debentures. These restrictions may be imposed (*a*) as to transfer; (*b*) as to voting rights; (*c*) as to the issue of further shares in the right of those shares; or (*d*) on the payment of any sum due on those shares from the company (except in a liquidation). Severe penalties are also imposed for the infraction of these restrictions, but a person who feels himself aggrieved has a right to apply to the court.

It should be noted that extensive detailed machinery is provided in ss. 42–49 of the 1947 Act for the enforcement of

these provisions. Further, an inspector who is appointed by the Board to investigate a company's affairs may if he thinks it necessary extend his investigations to subsidiaries, holding and associated companies of the company (see ss. 42 (5), 43 (2), 46 (5)).

This is not the end of the matter, however, as the Board also has certain powers to take proceedings as a result of its investigations. If necessary the Board can refer a matter to the Director of Public Prosecutions or the Lord Advocate as may be appropriate; if the company is not already being wound up by the court the Board may present a petition for the company to be so wound up or for an order under s. 9 of the 1947 Act. If it is in the public interest the Board may also take civil proceedings in the name of the company for the recovery of damages in respect of "any fraud, misfeasance or any other misconduct in connection with the promotion, formation or management of the company, or for the recovery of property of the company which has been misapplied or wrongfully retained."

The effectiveness of these provisions will depend to a large extent on a wise exercise of the Board of Trade's discretion. If they are really successful the results will be largely unseen as companies, like individuals, are apt to adjust their behaviour if they feel that a policeman is standing at their elbow. If, however, these provisions are used too sparingly they may well fall into disuse, and if they are used to excess the medicine would certainly be worse than the malady. If the Board of Trade exercises its discretion with perception and in moderation these measures should prove themselves an effective instrument in checking abuses which have hitherto been outside the control of the Companies Acts.

S.

A Conveyancer's Diary

IMPERFECT GIFTS

THE doctrine that there is no equity to perfect an imperfect gift leads to some strangely unfortunate results, and it is not out of place to examine the foundations on which some of the applications of this rule rest. The tendency of much modern legislation is to introduce the State as a third party to many transactions which have hitherto been left to the inclination, or the freely negotiated agreement, of the persons immediately concerned, with the further consequence that unless the consent of some department of Government is obtained to the transaction in question, its effect is wholly or partially invalidated. Irksome as these restrictions on individual action may be, it is doubly unfortunate when courts find themselves bound to give effect to a doctrine which can only aggravate the position. That is what happened in the much discussed case of *Re Fry* [1946] Ch. 312. The facts of this case will be familiar to many, and need only brief summary here. A person resident abroad executed a voluntary transfer of shares in a company registered in this country in favour of his son. When the transfer was presented to the company, registration was refused on the ground that, under the Defence (Finance) Regulations, 1939, the permission of the Treasury was required before the transferee could be registered as the holder of the shares. To obtain this consent various formalities had to be complied with, but before these could be completed, the transferor died. The position then was that the intended gift was incomplete, and so inoperative to transfer to the beneficiary the benefit which the transferor had intended for him. The transferor's executors took out a summons asking whether they ought to execute a confirmatory transfer of the shares to the beneficiary, and this question the court, with reluctance, answered in the negative.

Various arguments were advanced on behalf of the beneficiary, but it is on one only of several grounds on which the decision proceeded that I propose to comment to-day. Romer, J., held (and it is submitted, on the authorities, that it was hardly open to argue, much less to hold, otherwise) that at the date of the transferor's death the beneficiary had not acquired the legal title to the shares in question. He then went on to consider whether, as against the company, the beneficiary was at the date of the transferor's death in a position which entitled him to be placed on the register of members. Having reviewed the effect of the regulations, and in particular of that provision in the regulations which prohibited the company from registering the beneficiary as the holder of the shares, the learned judge came to the conclusion that, in the absence of the requisite Treasury permission, it was impossible to hold that the beneficiary, at the date of the transferor's death, had either acquired a legal title to the shares or a right, as against all other persons (including the company), to be clothed with such legal title.

The proposition that a person to whom shares are transferred does not acquire a legal title to the shares until he is entered on the company's register as a holder cannot be questioned on any ground; it is not only established by a long line of authority, but it is based on the common provisions found in the articles of association of a company whereby the directors have, at the least, a discretion to refuse to register a transfer of shares to any person of whom they do not approve. Until a transfer is registered the transferor remains a member of the company, subject to any liabilities which may attach to his holding of shares. The articles of association of small private companies often go very much further than this, and either completely prohibit the transfer of shares to persons outside a defined class, or make it a condition that before any intended transfer is registered the shares which it is desired to transfer should be offered to existing members of the company. It is clear that any relaxation of the rule that the legal title to shares in a company depends on prior registration would completely overturn one of the main safeguards of the stability of limited companies. But this rule relates to the internal administration of limited companies, and there seems to be no logical reason why it should be so applied as to defeat the benevolent intentions of any shareholder who is minded to make a present of his holding to another.

The principles underlying the doctrine that there is no equity to perfect an imperfect gift were restated in a celebrated judgment of Turner, L.J., in *Milroy* v. *Lord* (1862), 4 De G.F. & J. 264, when it was said that the current of authority limited the modes in which an effectual voluntary settlement may be made to three. These three modes are an out-and-out transfer of the property to the beneficiary, a transfer to trustees to hold on trust for the beneficiary, and a declaration of trust by the settlor in favour of the beneficiary. In order to create an effectual voluntary settlement the settlor must adopt one of these modes and carry it through to the end. These three modes are strikingly dissimilar in point of what happens to the legal estate in the property. In the first there is a complete divesting so far as the settlor is concerned, and a vesting in the beneficiary. In the second there is a complete divesting, but no vesting of the legal estate in the beneficiary, and in the third the only thing which is immediately affected is the equitable interest in the property. There may, therefore, be certain principles applicable as the result of the doctrine, but there does not emerge any single fixed principle on which it is based. If a complete and effectual settlement or gift can be made by a declaration of trust, affecting only the equitable interest in the property, it is difficult to see why, except on technical grounds, so much fuss is made in tracing the legal estate out of the settlor, and through the machinery of registration into the hands of the beneficiary, when the subject-matter of the transaction is a parcel of shares in a limited company. In view of the decision in *Milroy* v. *Lord*, *supra*, it is, of course, too late for any court except the highest to distinguish that decision or the general statement of the law which emerges therefrom, but perhaps an age which has seen the end of the

highly artificial rules for ascertaining the meaning of "money" in a testamentary document may also see this technicality demolished.

It is doubtless of paramount importance that the register of a company should show who are the persons absolutely entitled in law to the shares registered there. This rule has never been used to prevent the transmission on death of the beneficial interest in shares in a company, and no difficulty is experienced by reason of the fact that, from time to time, the registration of a legatee is refused on the ground that, in the opinion of the board, he is not a suitable person to register as a shareholder in the company. The difficulty is got over by a sale of the shares, and the legatee receives the purchase price. It is submitted that there is no distinction in principle between the position of a legatee of shares and a person whose rights in a benefit intended for him are frustrated by a technicality, and that the technical rules discussed here have served their day. It has been suggested that if, in *Re Fry*, *supra*, the transferor had confirmed his intended gift by a codicil, the difficulty which defeated his manifest intention would never have arisen. It is inevitable that the transfer of certain types of property should be hedged about with restrictions, but to graft one rule, framed to meet one set of circumstances, on to a totally distinct rule which was devised to meet quite another need, can only result in injustice. It is interesting to note that neither in *Milroy* v. *Lord*, *supra*, nor in *Re Fry*, *supra*, was the artificial result of this strange amalgam greeted with any degree of enthusiasm from the bench.

"A B C"

Landlord and Tenant Notebook

TOWN PLANNING AND SUB-LETTING PART OF DWELLING-HOUSE

For some time it has been possible for a tenant whose landlord has not undertaken to do any repairs to get some repairs done, in certain circumstances, by his landlord despite the absence of the obligation. I have in mind not only cases in which a covenant is imported into the tenancy of low-rental dwellings by the Housing Act, 1936, when the tenant has a right to damages, as was first decided by *Walker* v. *Hobbs & Co.* (1889), 23 Q.B.D. 458, just as if there had been a breach of an express term of a contract. For, apart from this, public health legislation, with its wide conception of "nuisances," frequently enables a tenant, who has no right of action against his landlord for breach of express or implied covenant, to ensure that if the premises are "in such a state as to be prejudicial to health or a nuisance" (Public Health Act, 1936, s. 92 (1) (*a*)) they are made the subject-matter of an abatement notice, and eventually abatement proceedings, until remedied. Granted that in some circumstances a landlord may be able to recover expenses from his tenant on the ground of breach of covenant (express or implied) or by invoking a far older statute, the Statute of Marlborough, 1267 ("fermors" made liable for waste), there will be many instances in which it will be found that public health legislation has in effect given tenants an indirect remedy.

But if Parliament can, unintentionally or not, do something for tenants in this way, it may also do something for landlords; and a perusal of s. 12 of the Town and Country Planning Act, 1947, which is about to come into force, suggests that this has happened. For just as many tenants in the past have had occasion to regret that when they entered into their agreements they did not stipulate for a landlord's repairing covenant, so have many landlords (especially those of controlled properties) learned with dismay that, there being no provision to the contrary, tenants can sub-let without permission. And if Public Health Acts have enabled tenants, as it were, to set the sanitary authority at their landlords, the new Town and Country Planning Act may well give landlords a corresponding power to set the town planning authority at their tenants.

Section 12 is the opening section of Pt. III, headed "Control of Development, etc." Subsection (1) enacts that subject to . . . etc., permission shall be required in respect of any development of land which is carried out after the appointed day; subs. (2) that except where the context otherwise requires "development" means, *inter alia*, the making of any *material* change in the *use* of any buildings. Proviso (*d*) saves the use of any buildings within the curtilage of *a* dwelling-house for any purpose incidental to the enjoyment of *the* dwelling-house as such. Then, commendably anticipating difficulty, subs. (3) says: "For the avoidance of doubt it is hereby declared that for the purposes of this section (*a*) the use as two or more separate dwelling-houses of any building previously used as a single dwelling-house involves a material change in the use of the building and of each part thereof which is so used"; and this is, of course, where I suggest that Parliament has handed many a landlord the weapon with which he forgot to provide himself when he became such.

Of course, when permission is sought, the mere remissness of the landlord will not be a consideration; the authority "shall have regard to the provisions of the development plan, so far as material thereto, and to any other material considerations"; and while the two interests, those of landlord and authority, may coincide or at least overlap, it is perhaps unlikely that while one authority is busy registering accommodation under Def. Reg. 68CB, legalising its availability "notwithstanding any provision to the contrary in any lease or tenancy or in any covenant, contract or undertaking relating to the use to be made of the land," another will be too chary of granting permission to sub-let part of a dwelling-house as a separate dwelling when it had not occurred to the landlord to provide against this happening. But permission may be granted on conditions, as the authority thinks fit (s. 14 (1)). A shortage of housing in the area may well be a "material consideration" if permission is applied for, even if this be done (as it can be done) after enforcement proceedings have been commenced.

If the use as two or more separate dwelling-houses be not sanctioned or condoned, the first thing the authority has to do is serve enforcement notices on *owner and occupier*, under s. 23 (1). This, by subs. (2), can "require such steps as may be specified in the notice to be taken within such period as may be so specified for restoring the land to its condition before the development took place . . ." So far the remedy would be difficult to apply to a case of sub-letting part as a separate dwelling without any physical change of or in structure, but "in particular any such notice may . . . require . . . the *discontinuance of any use* of land . . ." The next subsection expressly provides for suspension of the notice if permission be applied for, and its nullification if the permission be granted. But in s. 24, containing supplementary provisions as to enforcement, the offence of illegal use, as opposed to other illegal development, is given a subsection (subs. (3)) all to itself: the use, causing the use, and permitting the use in contravention of the notice are made punishable by a maximum fine of £50, and continuance after conviction by maximum fines of £20 a day.

The superior landlord may himself be served with an enforcement notice as being within the definition of "owner" in s. 119 (1): "a person . . . who . . . is entitled to receive the rack rent of the land . . ." and it may be that, though he neither caused nor permitted the development, the notice could request him to terminate the head lease if he has power to do so (*cf. Jennings* v. *Throgmorton* (1825), Ry. & M. 251; premises let on weekly tenancy, used for prostitution; rent

irrecoverable after landlord informed). But if the head term were a substantial one, and contained no provision against subletting part of the premises, some active connivance or condonation would, it is submitted, have to be proved before the superior landlord could be found guilty of causing or permitting continuance of the prohibited use. *Berton* v. *Alliance Economic Investment Co.* [1922] 1 K.B. 742 (C.A.) and *Barton* v. *Reed* [1932] 1 Ch. 362, while concerned with covenants, are useful authorities on the question what amounts to "permit" ("either to give leave for an act without which that act could not be legally done, or to abstain from *taking reasonable steps* to prevent the act *where it is within a man's power* to prevent it").

But the mesne tenant and the sub-tenant will be in a different position, and, unless permission be obtained with its retrospective effect of annulling the enforcement notice, the result in my submission is that the grant of the sub-tenancy is made invalid *ab initio*; that the parties cannot derive any benefit from it; and the sub-tenant would not be protected by the Increase of Rent, etc., Restrictions Acts, as there was no letting.

While credit is due and has been given to the draftsmen of the Town and Country Planning Act, 1947, for declaring that use as separate dwelling-houses involves a material change, they have not, and perhaps could not be expected to have, gone into the question of what is a separate dwelling-house. The expression has been used in other statutes, and interpreted in decisions upon those statutes, but where such matters as franchise or revenue have been concerned it is doubtful whether the decisions would be helpful, being open to the *alio intuitu* objection. Does this apply to decisions interpreting s. 16 (1) of the Rent, etc., Restrictions (Amendment) Act, 1933, from *Neale* v. *Del Soto* [1945] K.B. 144 (C.A.) down to *Llewellyn* v. *Christmas*, which I discussed last week? At first sight, one might be inclined to think not, both enactments having something to do with housing; but on reflection, I think that the conclusion must be that the same objection might well prevail. For it would be strange, it might well be urged, that under "an Act to make fresh provision for planning the development and use of land, for the grant of permission to develop land, etc." (see heading), an owner or tenant could let some rooms "with share of kitchen," but might be prevented from installing a second kitchen and letting it with other accommodation.

R. B.

TO-DAY AND YESTERDAY

LOOKING BACK

THE Hindon election in 1775 was a lively affair with a lively sequel. One of the voters, convicted of wilful and corrupt perjury, was sentenced in the Court of King's Bench to stand in the pillory twice within the borough with a paper expressing his crime fastened on his forehead. On 19th June, 1776, he was brought from the King's Bench to Fisherton Gaol and on the following day "was carried to Hindon where he was placed in the pillory for the first time. He was met on the road by a number of his friends with two flags and blue ribbons in their hats. The populace treated him very favourably, their attention being taken off, in a great measure, by a person mounted on a stool who sung and sold an election ballad much to their entertainment." The election of 1775 created a public outcry even in the days of rotten boroughs. The two unsuccessful candidates charged their opponents with bribery. The sitting members retorted the charge. A Committee of the House of Commons found them all guilty of corruption and a determined attempt was made to disfranchise the borough. Three times Bills were brought in for this purpose but technicalities and obstructionism blocked their passage, and finally a writ for a new election was issued. Hindon had under 800 inhabitants and only 200 electors, and it had been proposed to transfer their representation to some great manufacturing town like Birmingham or Manchester, which had none as yet, but it was objected that "this would in truth be an injury, as all the expense, dissipation and dissensions, which are too often the attendants and consequences of elections, would thereby be introduced in the place of economy, sobriety and industry."

MALICE DOMESTIC

IN the recent case at Dundee when a Pole and his Scottish wife were tried for a long course of ill-treatment of his sixteen-year-old niece, it appeared that she had been kept at work from six in the morning till eleven at night and sometimes beaten three times a day. Counsel for the prosecution described the case as without parallel in his experience. Unfortunately, legal history chronicles even more startling instances of this class of crime. An outstanding example was the case of Mrs. Elizabeth Brownrigg, the wife of a plumber of Fleur-de-Lys Court, in Fleet Street. She was a qualified midwife and in 1765 opened an establishment where women could lie-in privately. To save the cost of servants she applied to the authorities for poor girls to be apprenticed to her to be trained in household duties. Of the first two, one succeeded in escaping back to the Foundling Hospital after a course of beating and ill-treatment which left such marks on her that the Governors threatened the Brownriggs with prosecution and applied to the City Chamberlain for the girl's discharge from her apprenticeship. Nevertheless, the other child, Mary Mitchell, remained and the woman obtained from the Whitefriars overseers another apprentice called Mary Clifford. They were constantly thrashed with broom, whip or cane, and they had little food or even water. Mary Clifford had to sleep on sacking in the coal-hole. The alarm was raised when her step-mother came up from the country. The Brownriggs denied all knowledge of her, but the neighbours told another story. The result was a visit from the authorities who took away Mary Mitchell terrorised and covered with ulcerated sores. The other girl could not be found but, on a second visit, she was discovered in an even worse condition hidden in a cupboard. Soon afterwards she died and Mrs. Brownrigg was hanged for her murder.

A TEMPLE HORROR

IN 1850 there was a very similar case in the Temple. Mr. George Sloane, an eminent special pleader, living with his wife at 6 Pump Court, for a year and a half employed a girl of about seventeen as a servant. At last her appearance, formerly normal and healthy, so alarmed the laundress of the chambers below that she informed the two barristers who employed her and they intervened. The doctor who examined the girl said: "I could not have believed that a person could be so reduced and live. She was certainly the most perfect living skeleton I have ever seen." Sloane and his wife were prosecuted for ill-treating her, and at the Guildhall she had to be brought into court in an easy chair, motionless and almost inaudible. The tale of horrible ill-usage and starvation which she revealed so infuriated London that twice her master barely escaped being lynched. He and his wife were tried at the Old Bailey before Mr. Justice Coleridge in February, 1851, and sentenced to two years' imprisonment.

CORRESPONDENCE

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL]

Execution of Trusts (Emergency Provisions) Act, 1939

Sir,—We were interested in the paragraph under "Current Topics" in last Saturday's issue of the SOLICITORS' JOURNAL on the Execution of Trusts (Emergency Provisions) Act, 1939, as we have recently been called upon to advise on the Order ending the "period of the present emergency" for the purposes of this Act.

While we entirely agree with your reading of the Order as regards its effect on persons coming within subs. (1) of s. 1 of the Act, we are not clear about the effect of the Order on persons coming within subs. (5) of that section. Under this subsection, powers of delegation are given to trustees, etc., in relation to any period during which they are unable to return to the United Kingdom "for any reasons connected with the present war." There is no definition of the expression "the present war," and it is certainly still impossible for persons in certain places abroad to return to this country owing to transport difficulties still subsisting as a result of war-time conditions.

Unless, therefore, the expression "the present war" can be regarded as being the same as "the present emergency," we are not clear that the Order, although its general intention is clear, is apt to bring to an end the provisions of s. 1 (5).

ALFRED BRIGHT & SONS.

London, E.C.4.
14th June.

BIRTHDAY LEGAL HONOURS

BARON

Sir (WILLIAM) FRANCIS KYFFIN TAYLOR, G.B.E., K.C., D.L., Presiding Judge of the Liverpool Court of Passage, 1903–April, 1948. A Railway and Canal Commissioner since 1930. Called by the Inner Temple, 1879, and took silk 1895.

PRIVY COUNCILLOR

Sir FRANK SOSKICE, K.C., M.P., Solicitor-General since 1945. Called by the Inner Temple, 1926, and took silk 1945.

KNIGHTS BACHELOR

His Hon. Judge EDWIN COOPER BURGIS, County Court Judge. Called by Gray's Inn, 1904.

Mr. LAURENCE RIVERS DUNNE, M.C., Chief Metropolitan Magistrate. Called by the Inner Temple, 1922.

Mr. LESLIE BERTRAM GIBSON, Colonial Legal Service, lately Attorney-General, Palestine. Called by Gray's Inn, 1930.

Mr. CLEMENT THORNTON HALLAM, Solicitor to the General Post Office. Admitted 1914.

The Hon. NORBERT KEENAN, K.C., Member of Legislative Assembly, State of Western Australia.

The Hon. Mr. Justice HERBERT MAYO, Senior Puisne Judge of the Supreme Court, State of South Australia.

Mr. LEO FRANCIS PAGE, for services to Penal Reform. Called by the Inner Temple, 1918.

ORDER OF THE BATH

K.C.B.

Mr. ALAN EDWARD ELLIS, C.B., First Parliamentary Counsel. Called by the Inner Temple, 1920.

ORDER OF ST. MICHAEL AND ST. GEORGE

G.C.M.G.

The Rt. Hon. ROBERT ALDERSON, Baron WRIGHT, LL.D., lately a Lord of Appeal in Ordinary. Called by the Inner Temple, 1900, and took silk 1917.

K.C.M.G.

Mr. WILLIAM ERIC BECKETT, C.M.G., K.C., Legal Adviser to the Foreign Office. Called by the Inner Temple, 1922, and took silk 1946.

ROYAL VICTORIAN ORDER

K.C.V.O.

Mr. WALTER LESLIE FARRER. Admitted 1926.

M.V.O.

Mr. JOHN RICHARD CHARLES ROTTON. Admitted 1892.

ORDER OF THE BRITISH EMPIRE

K.B.E.

Mr. REGINALD RAMSON WHITTY, C.B.E., Public Trustee. Admitted 1913.

C.B.E.

Mr. B. L. Q. HENRIQUES, J.P., lately Warden of the Bernhard Baron St. George's Jewish Settlement, Stepney.

Mr. T. G. LUND, Secretary of The Law Society. Admitted 1929.

Mr. A. G. NEWMAN, Assistant Solicitor, Office of H.M. Procurator General and Treasury Solicitor. Admitted 1920.

Mr. W. H. L. PATTERSON, Assistant Secretary, Board of Trade. Called by Gray's Inn, 1925.

O.B.E.

Mr. E. W. ELDRIDGE, Trust Officer, Public Trustee Office. Admitted 1934.

Mr. B. C. GRAY, M.B.E., Clerk of Accounts, Vote Office, Supreme Court of Judicature.

Mr. H. T. LEWIS, Honorary Treasurer and Honorary Solicitor, National Association for the Employment of Regular Soldiers, Sailors and Airmen. Admitted 1920.

M.B.E.

Mr. A. G. CLARKSON, Superintendent of the Land Charges and Agricultural Credits Departments, Land Registry.

Mr. J. R. SAUNDERS, Senior Executive Officer, Office of H.M. Procurator-General and Treasury Solicitor.

IMPERIAL SERVICE ORDER

I.S.O.

Mr. J. O. GRIFFITS, Clerk of the Lists, Supreme Court of Judicature.

Mr. F. S. TREDINNICK, Controller of Stamps, Board of Inland Revenue.

NOTES OF CASES

COURT OF APPEAL

PROVIDENT SOCIETY: JURISDICTION OF COURT

Judson *v.* Ellesmere Port Ex-Servicemen's Club, Ltd.

Lord Greene, M.R., Somervell, L.J., and Roxburgh, J. 22nd April, 1948

Appeal from Birkenhead County Court.

The plaintiff brought an action against the defendant club, claiming an injunction and damages in respect of his purported expulsion from the club for alleged breach of its rules, and a declaration that he was still a member. He contended that the procedure laid down by the rules for expulsion of members had not been observed. The defendants applied for an order staying the proceedings under s. 4 of the Arbitration Act, 1889. Before the judge, the defendants relied on s. 49 (1) of the Industrial and Provident Societies Act, 1893. By that subsection "Every dispute between a member of a registered society, or any person aggrieved who has for not more than six months ceased to be a member" of the society, and the society "shall be decided in manner directed by the rules of the society . . . and the decision so made shall be . . . conclusive . . . without appeal . . . ." The county court judge refused a stay, and the defendants appealed. (*Cur. adv. vult.*)

SOMERVELL, L.J.—LORD GREENE, M.R., and ROXBURGH, J., concurring—said that, if *Prentice* v. *London* (1875), L.R. 10 C.P. 679, *Willis* v. *Wells* [1892] 2 Q.B. 225, and *Palliser* v. *Dale* [1897] 1 Q.B. 257 were still good law, the county court judge's decision that the jurisdiction of the court was not ousted must stand. All three cases were consistent with the decision of the House of Lords in *Heyman* v. *Darwins, Ltd.* [1942] A.C. 356. In any event that decision left *Prentice* v. *London, supra*, untouched because there the defendant club alleged that the plaintiff never had been a member of it. In the two later cases the question was whether the plaintiff had been deprived of membership which he had admittedly enjoyed. He (his lordship) doubted if he would, were he free to reconsider those two cases, reach the conclusion there reached; but they still stood. The county court judge's decision was right. Appeal dismissed.

APPEARANCES: *F. Elwyn Jones* (*E. Steel* with him) (*Lovell, Son & Pitfield*, for *Walker, Smith & Way*, Chester); *J. H. Barrington* (*J. M. Kennan* with him) (*Field, Roscoe & Co.*, for *Berkson & Berkson*, Birkenhead).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

"UNFIT FOR HUMAN HABITATION": DEFECTIVE HOT-WATER SYSTEM

Daly *v.* Elstree Rural District Council

Scott and Asquith, L.JJ., and Jenkins, J. 7th May, 1948

Appeal from Barnet County Court.

The respondent was the owner of a house within s. 9 (1) of the Housing Act, 1936. The hot-water system, which was operated by means of an Ideal boiler, was out of order. The house had no other defect. There was a gas cooker in the kitchen, on which water could be heated as required. The house had electric lighting. Nine hundred and ninety-five of the houses in the district, of rateable value up to £25, had a hot-water system and 331 had not. The appellant rural district council served on the owner notice under s. 9 (1) to carry out repairs. The owner appealed to the county court judge under s. 15, and the judge allowed the appeal. By s. 9 (1) of the Housing Act, 1936, "Where a local authority . . . are satisfied that any house . . . suitable for occupation by persons of the working classes is in any respect unfit for human habitation they shall . . . serve upon the person having control of the house a notice requiring him . . . to execute" specified works. By s. 188 (4), "In determining . . . whether a house is fit for human habitation, regard shall be had to the extent to which by reason of disrepair . . . the house falls short . . . of the general standard of housing accommodation" for persons of the working classes in the district.

SCOTT, L.J., said that he rejected the argument for the rural district council that the judge must have misdirected himself in holding, on the facts which he had found, that the house was fit for human habitation having regard to the general standard of similar accommodation in the district. The judge was not bound by any numerical proportion in forming his opinion. The house was not defective in any other respect. The judge was obviously right. The appeal would be dismissed.

ASQUITH, L.J., agreeing, said that s. 188 (4) provided that the county court judge must "have regard," not must "have

exclusive regard" to the general standard. He was entitled to take all other circumstances into consideration as well.

JENKINS, J., agreed.

Appeal dismissed.

APPEARANCES: *L. A. Blundell* (*Turner & Evans*). The owner appeared in person.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

LIMITATION: WARRANT FOR POSSESSION

Donovan *v.* Lougher

Scott and Asquith, L.JJ., and Jenkins, J.
11th May, 1948

Appeal from Pontypool County Court.

Before 1929 a house was let to the late husband of the defendant by a landlord, since deceased, of whom the plaintiff was the executor. In January, 1929, the landlord obtained an order of possession against the deceased tenant, the county court judge directing that it should be suspended so long as the rent should be paid. In 1930 and 1932 the local authority made a closing order and then a demolition order in respect of the house, but neither order was ever carried into effect. The landlord having obtained a warrant for possession under Ord. XXV, r. 71, of the County Court Rules, the court, on 17th May, 1933, extended it for six months. The defendant's husband died in 1937, but she remained in possession, except for a short period, until 1947, despite repeated requests by the landlord to her to vacate the house. No rent was paid or demanded after the making of the demolition order in 1932. In 1947 the plaintiff, having obtained an order substituting the defendant's name for that of her late husband in the original action for possession, applied for a further extension of time for executing the warrant for possession. The defendant pleaded the Limitation Act, 1939, but the registrar and, on appeal, the county court judge made an order granting the extension. The defendant appealed. By s. 2 (4) of the Act "An action shall not be brought upon any judgment after the expiration of twelve years from the date on which the judgment became enforceable." By s. 31 (1), "'Action' includes any proceeding in a court of law . . ." (*Cur. adv. vult.*)

SCOTT, L.J., reading the judgment of the court, said that if the appeal succeeded the plaintiff executor would be left to take such other steps as he might be advised in order to meet the defendant's claim to a possessory title under the Act of 1939. The application for an extension of time for execution of the warrant was clearly an action within the meaning of s. 31 (1), and, therefore, barred by s. 2 (4). Section 5 (4) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, giving the county court judge powers of suspension of warrants for possession was irrelevant to the action, and could not override s. 2 (4) of the Act of 1939. The argument for the plaintiff that a statutory tenant under the Rent Restriction Acts could not acquire title by adverse possession did not arise, as there was no proof of a statutory tenancy, but would be open to the plaintiff if he began a new action for possession. Appeal allowed.

APPEARANCES: *Micklethwait* and *Olson* (*Collyer-Bristow & Co.*, for *D. G. West*, Newbridge, Mon.); *N. MacDermot* and *T. Springer* (*Vizard, Oldham, Crowder & Cash*, for *Dauncey & Sons*, Newport, Mon).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

WILL: CONSTRUCTION OF CHARITABLE BEQUEST

***In re* Lucas; Sheard *v.* Mellor**

Lord Greene, M.R., Somervell, L.J., and Jenkins, J.
14th May, 1948

Appeal from a decision of Roxburgh, J.

E L, by her will dated in 1942, bequeathed certain sums to "the Crippled Children's Home, Lindley Moor, Huddersfield." An institution known as the "Huddersfield Home for Crippled Children" had existed at Lindley Moor, near the home of the testatrix, from 1914 to 1939, when it was closed, and its residual funds were devoted in 1941 to a scheme for benefiting the crippled children of the neighbourhood. Roxburgh, J., held that the gift lapsed, as having been given to the particular home and not for the general augmentation of the funds of the institution (92 SOL. J. 26).

LORD GREENE, M.R., reading the judgment of the court, said that as long as it held funds a charity continued in existence notwithstanding alterations in its constitution or objects: *In re Faraker* [1912] 2 Ch. 488. On the other hand, in the absence of general charitable intention, a gift for a particular charitable purpose which had wholly failed would lapse: *In re Rymer* [1895] 1 Ch. 19. The inclusion of the address was just as appropriate to identify the charity as the building; the misdescription of name was no worse with regard to the charity than with regard to the home. To infer that the testatrix confined her bounty to the upkeep of the home from the absence of evidence that she knew the constitution or objects of the charity was to construe the will by guessing at the state of mind of the testatrix. If the home had remained open until after the death of the testatrix, the gifts would have passed to the general trust funds of the charity. The fact that the home had closed before the date of the will could not alter the meaning of the words in the will. The appeal would be allowed, with costs of all parties as between solicitor and client out of the estate.

APPEARANCES: *Danckwerts, Newsom* (*the Treasury Solicitor*); *C. A. J. Bonner* (*Gregory, Rowcliffe & Co.*, for *Ramsden, Sykes and Ramsden*, Huddersfield); *Wilfrid Hunt, T. A. C. Burgess* (*Dixon, Hunt & Tayler* for *Cartwright & Fieldhouse*, Huddersfield); *Jennings*, K.C., and *B. S. Tatham* (*Crossman, Block & Co.* for *Eaton Smith & Downey*, Huddersfield).

[Reported by F. R. DYMOND, Esq., Barrister-at-Law.]

PROBATE, DIVORCE AND ADMIRALTY

CONDONATION: REVIVAL: DESERTION: OFFER TO RETURN

Pearson *v.* Pearson

Lord Merriman, P., and Ormerod, J. 27th May, 1948

Appeal from Leeds justices.

While the appellant husband was serving abroad with the Forces during the war, the respondent, his wife, committed adultery, which he later condoned. Ultimately, she told him that she did not wish to continue their married life, but later, over a period of twelve months, she made several requests for resumption of cohabitation. On her complaint to the justices, they held her entitled, on the facts, to an order for maintenance at 10s. a week. The husband appealed.

LORD MERRIMAN, P.—ORMEROD, J., concurring—held, on the facts, that the justices' decision was justified, as the parting had really been by mutual consent, and said that if the facts here had warranted it, the decision in *Lloyd* v. *Lloyd and Hill* [1947] P. 89, which applied *Beard* v. *Beard* [1946] P. 8, would have been applicable. Desertion only existed if one spouse left against the will of the other, though that the latter should greatly regret it was not necessary. If the wife had been guilty of desertion, the adultery thus being revived (*Beard* v. *Beard, supra*), her subsequent genuine offers to resume cohabitation would not have been effective to cancel that revival.

Appeal dismissed.

APPEARANCES: *H. S. Law* (*Temple* with him) (*George A. Herbert*, for *Willey Hargrave & Co.*, Leeds).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CHANCERY OF LANCASTER

WILL: TRUST TO MAKE DISCRETIONARY PAYMENTS "ON PROTECTIVE TRUSTS"

***In re* Isaacs, deceased; Isaacs and Another *v.* Isaacs and Others**

Judge Peel, Deputy of the Chancellor. 10th May, 1948

By his will, the testator gave his residuary estate on the usual trusts for sale, payment of expenses and debts, and investment and directed his trustees to hold the trust fund so constituted in trust for such of them, his daughter Dorothy Btesh, and his sons Joseph, Edward and Leon, as should be living at his death and, if more than one, in equal shares, subject nevertheless to the provisions thereinafter contained concerning the share of his son Joseph, and, after providing for the events of the death of a child in his lifetime leaving issue and/or a spouse, or without leaving either issue or spouse, directed that the share of the trust fund thereinbefore given to his son Joseph should not vest absolutely in him, but should be retained by his trustees and held by them "upon trust from time to time during the life of my said son Joseph or during such shorter period or periods either continuous or discontinuous as they shall in their absolute discretion think fit to pay all or any part of the income of such share upon protective trusts for my said son Joseph with power at their discretion from time to time to pay or apply any part of the capital thereof for his benefit as if they were beneficial owners of such income and capital," and after the death of Joseph over. The testator died on the 30th April, 1947, leaving his four named children surviving, and his will was proved by the plaintiffs, who sought the opinion of the court whether the trust in favour of Joseph recited above failed as not being in conformity with the statutory provisions of s. 33 of the Trustee Act, 1925, and upon other questions not calling for report. It

was pointed out in argument that the trust in question was almost identical with form 21 on p. 812 of Key and Elphinstone's Conveyancing Precedents (13th ed.), a form that had not been repeated in the 14th Edition. It was contended that s. 33 of the Act was not brought into operation since the trusts of the clause in question were to take effect (*a*) not in respect of the whole or a defined part of the income, but only on so much of the income as the trustees might think fit, and (*b*) not for a defined period but only during such period or periods during the life of Joseph as the trustees might think fit, and it was submitted that, since the section did not operate, the trusts were void for uncertainty.

The DEPUTY OF THE CHANCELLOR, delivering judgment, said that there was a heavy burden on those who tried to upset a trust for uncertainty: the court would give effect, if possible, to a testator's dispositions. Dispositions which had been held to be void for uncertainty would seem to fall into one or other of two classes, viz., those expressed in words which were not intelligible and those which though expressed in words which were intelligible in themselves, left the intention of the testator in doubt, e.g., a bequest "To A or to B." The present trust did not fall into either class: the testator in using the phrase "protective trusts" was using a sort of shorthand which would be recognised by any conveyancer as an incorporation of the trusts set out in paras. (i) and (ii) of subs. (1) of s. 33 of the Trustee Act, 1925. It did not matter that the trusts were to take effect only in respect of so much income as the trustees thought fit or that they were to take effect or might take effect during a whole succession of discontinuous periods. He held that there was no uncertainty in the disposition.

APPEARANCES: *G. Maddocks; Allan Walmsley, K.C., and P. Ingress Bell; S. Pascoe Hayward, K.C., and H. Easton; R. A. Forrester* (*Marco Blumberg & Gorna*, Manchester).

[Reported by JAMES FITZHUGH, Esq., Barrister-at-Law.]

PARLIAMENTARY NEWS

HOUSE OF LORDS

Read First Time:—

NURSERIES AND CHILD-MINDERS REGULATION BILL [H.C.] [7th June.

Read Second Time:—

CHURCH OF SCOTLAND TRUST (AMENDMENT) ORDER CONFIRMATION BILL [H.C.] [10th June.

To confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to the Church of Scotland Trust..

DARWEN CORPORATION BILL [H.C.] [10th June.

EMPLOYMENT AND TRAINING BILL [H.C.] [10th June.

LONDON COUNTY COUNCIL (MONEY) BILL [H.C.] [10th June.

NATIONAL INSURANCE (INDUSTRIAL INJURIES) BILL [H.C.] [10th June.

WILLIAM BROWN NIMMO CHARITABLE TRUST (AMENDMENT) ORDER CONFIRMATION BILL [H.C.] [10th June.

To confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to the William Brown Nimmo Charitable Trust.

Read Third Time:—

EDUCATION (MISCELLANEOUS PROVISIONS) BILL [H.C.] [7th June.

PEABODY DONATION FUND BILL [H.L.] [8th June.

RAILWAY CLEARING SYSTEM SUPERANNUATION FUND BILL [H.C.] [8th June.

In Committee:—

AGRICULTURE (SCOTLAND) BILL [H.C.] [10th June.

CRIMINAL JUSTICE BILL [H.C.] [7th June.

HOUSE OF COMMONS

Read First Time:—

PUBLIC WORKS LOANS (NO. 2) BILL [H.C.] [9th June.

To grant money for the purpose of certain local loans out of the Local Loans Fund, and for other purposes relating to local loans.

Read Second Time:—

COMPANIES BILL [H.L.] [11th June.

CROMER URBAN DISTRICT COUNCIL BILL [H.C.] [7th June.

DARLINGTON CORPORATION TROLLEY VEHICLES (ADDITIONAL ROUTES) PROVISIONAL ORDER BILL [H.C.] [9th June.

DEVELOPMENT OF INVENTIONS BILL [H.L.] [11th June.

PIER AND HARBOUR PROVISIONAL ORDER (REDCAR) BILL [H.C.] [9th June.

PIER AND HARBOUR PROVISIONAL ORDER (SWANAGE) BILL [H.C.] [9th June.

PORTSMOUTH CORPORATION (TROLLEY VEHICLES) PROVISIONAL ORDER BILL [H.C.] [9th June.

Read Third Time:—

MINISTRY OF HEALTH PROVISIONAL ORDER (BRISTOL) BILL [H.C.] [10th June.

MINISTRY OF HEALTH PROVISIONAL ORDER (EXETER) BILL [H.C.] [10th June.

MINISTRY OF HEALTH PROVISIONAL ORDER (GLOUCESTER) BILL [H.C.] [11th June.

MINISTRY OF HEALTH PROVISIONAL ORDER (HUDDERSFIELD) BILL [H.C.] [10th June.

MINISTRY OF HEALTH PROVISIONAL ORDER (MACCLESFIELD) BILL [H.C.] [10th June.

MINISTRY OF HEALTH PROVISIONAL ORDER (NORTHAMPTON) BILL [H.C.] [10th June.

MINISTRY OF HEALTH PROVISIONAL ORDER (SHEFFIELD) BILL [H.C.] [10th June.

MINISTRY OF HEALTH PROVISIONAL ORDER (SHREWSBURY) BILL [H.C.] [11th June.

MINISTRY OF HEALTH PROVISIONAL ORDER (STOCKTON-ON-TEES) BILL [H.C.] [10th June.

In Committee:—

FINANCE (NO. 2) BILL [H.C.] [8th June.

GAS BILL [H.C.] [10th June.

QUESTIONS TO MINISTERS

MOTOR VEHICLES (HIRE-PURCHASE)

Mr. ASTERLEY JONES asked the Minister of Transport whether he will introduce legislation providing that, when a motor vehicle is subject to a hire-purchase agreement, the interest of the owner under that agreement shall be recorded in the registration book.

Mr. BARNES: No, sir. A registration book is not a document of title and cannot provide a record of legal ownership.

Mr. ASTERLEY JONES: Is not my right hon. friend aware that very great hardship is being caused to numbers of people who buy second-hand cars and subsequently find out that they did not belong to the apparent vendor at all, but to some finance company, and cannot he possibly make an exception to the general rule and indicate this by a simple entry at the time of registration?

Mr. BARNES: That may be so, but, if I gave this responsibility to the licensing authorities, it would lead to very considerable difficulty. [7th June.

MATRIMONIAL CAUSES (WAR MARRIAGES) ACT, 1944

In a written answer to Mr. WILLIS, the ATTORNEY-GENERAL stated that in London 403 petitions had been filed under the above Act, of which 269 had been heard and 134 were pending. The number filed in district registries was probably about the same. The LORD CHANCELLOR, in consultation with the Departments concerned, was considering whether the period during which marriages fell within the provisions of the Act should be determined by Order in Council. [10th June.

RENT RESTRICTION (TRIBUNALS)

In a written anwer to Brigadier PETO, the MINISTER OF HEALTH stated that the establishment of tribunals with power to fix fair rents for premises controlled under the Rent Restrictions Acts would require legislation of which there was no early prospect. [10th June.

RECENT LEGISLATION

STATUTORY INSTRUMENTS 1948

No. 1145. **Building** (Safety, Health and Welfare) Regulations, 1948. May 31.

No. 1204. **Non-Contentious Probate** Rules, 1948. June 3.

No. 1172. **Railway and Canal Securities** (Conversion Date) (No. 6) Order, 1948. June 2.

No. 1189. **Town and Country Planning** (Development Charge) Regulations. April 23.

No. 1188. Town and Country Planning (Development Charge Exemptions) Regulations, 1948. April 29.

No. 1137. Town and Country Planning (Enforcement of Restriction of Ribbon Development Acts) (Scotland) Additional Regulations, 1948. May 28.

No. 1177. **Trading with the Enemy** (Enemy Territory Cessation) (Albania) Order, 1948. May 31.

[Any of the above may be obtained from the Publishing Department, S.L.S.S., Ltd., 88/90, Chancery Lane, London, W.C.2.]

UNIVERSITY OF LONDON

INSTITUTE OF ADVANCED LEGAL STUDIES

Opening Ceremony: 11th June, 1948

At the inaugural ceremony of the Institute of Advanced Legal Studies of the University of London at the Senate House on Friday, 11th June, the Rt. Hon. Lord Macmillan (Chairman of the Committee of Management) introduced the Lord Chancellor (the Rt. Hon. Viscount Jowitt) and sketched the history of this long-cherished project. The first committee was set up in 1932 and the fact that the establishment of such an institution would be welcomed at home and abroad was evidenced by letters from (among many others) Field-Marshal Smuts, who, had he been able to attend, would have lent his warmest encouragement.

Lord Jowitt took as the subject of his address the abolition of the " privilege " of peers to be tried by their peers in their own House in cases of treason and felony. It may be, he said, that we now see the last days of a court which has existed longer than juries and Parliament. The rule of law, the abolition of which he moved in the House recently, is that which prevents the ordinary courts of the land from having any jurisdiction over a peer in cases of treason and felony but which gives the House of Lords no jurisdiction to try him for a misdemeanour.

The rule was extended to peeresses by an Act of 1441. The court may be of two kinds : if Parliament is not in session the peer is tried by the Lord High Steward and a jury of peers, the Lord High Steward being the sole judge of law and the peers judges of fact only ; if Parliament is in session the Lord High Steward presides over the full House of Lords and each peer gives his verdict individually.

The origin of this type of trial was popularly thought to lie in the thirty-ninth clause of the Magna Charta, which provides that " no freeman shall be imprisoned or in any way destroyed . . . except by the lawful judgment of his Peers." But it was certain that Magna Charta did not create a new method of trial for the baronage. Rather was this clause an attempt by the barons to put the clock back ; they demanded judgment by their peers in *all* cases. In later years they claimed that the clause covered civil as well as criminal offences. Finally, by an Act of 1441, they succeeded in getting only the absolute minimum—the principle that in cases of treason and felony, and where the forfeiture of estates was incurred, judgment should be given by the peers.

Though the passing of this privilege would be regretted by all with a regard for the historical, a sense of proportion must be preserved. The last occasion on which this " privilege " was exercised was that in a simple case of motor manslaughter, the final verdict in which was that there was no case to answer—and the cost to the country was £700.

If the method of trial which our law provided for a commoner was as satisfactory as human ingenuity could make it, let us make use of the same system for peers ; if there was something amiss, let us amend it. One must remember too the tendency for the man in the street to feel, quite wrongly, of course, that the peer had had some concession not available to the commoner.

While regretting that his chance of holding the colourful office of Lord High Steward was now slim, he warned the assembly that tradition could be maintained at too great a risk and might interfere with the due administration of justice.

Mr. Justice Birkett moved a vote of thanks, to which Lord Macmillan replied, and the assembly adjourned to 25 Russell Square to inspect the new institute premises and its library.

NOTES AND NEWS

Honours and Appointments

Mr. J. H. A. J. A. Cæsar, Assistant Solicitor to the County Borough of Chester, has been appointed Senior Assistant Solicitor in the Town Clerk's Department, Huddersfield. He was admitted in 1939.

Notes

The annual general meeting of the Union Society of London will be held on 30th June.

The Union Society of London and the Gray's Inn Debating Society will hold a Joint Ladies' Night Debate in the Niblett Hall, Inner Temple, at 8.15 p.m., on 23rd June. The subject is " That the drift to war can be stopped by changing the foreign policy of this country."

GENERAL COUNCIL OF THE BAR

Appointment of Officers, 1948

The council has reappointed the following officers for the year : Chairman, Mr. G. O. Slade, K.C. [now Mr. Justice Slade] ; Vice-Chairman, Sir Cyril Radcliffe, G.B.E., K.C. ; Hon. Treasurer, Mr. Gerald Upjohn, K.C.

The following members of the Bar have been appointed additional members of the council : Rt. Hon. Sir David Maxwell Fyfe, K.C., M.P., Mr. L. F. Heald, K.C., Mr. Maurice FitzGerald, K.C., Mr. H. Edmund Davies, K.C., Mr. T. N. Donovan, K.C., M.P.

CHRIST CHURCH AND KENNINGTON LAW CLUBS

Lord Justice Cohen presided over a joint moot of Christ Church, Oxford, and Kennington Law Clubs, held at Christ Church, on the 2nd June, at which the question whether consideration is necessary to support an equitable assignment was argued by Messrs. J. D. Keir and I. D. Hobson, of Christ Church, and T. O. Kellock and T. Cocking, of Kennington College of Commerce and Law. Those present included Sir Graham Savage, C.B., Education Officer to the London County Council, and Rev. Claude Jenkins, Canon of Christ Church. The meeting was well attended by members of both clubs.

THE SOLICITORS' CLERKS' PENSION FUND

The annual meeting of the Solicitors' Clerks' Pension Fund was held on Thursday, 10th June, 1948, in the Court Room of The Law Society, 60 Carey Street, London. Mr. David Pollock was in the chair. In submitting the annual report and the accounts for 1947 for adoption, the chairman called attention to the main functions of the committee of management, stating that the committee regarded it as their first duty to carefully order the investment structure of the Fund, and then to administer the Fund as offering an important service to employers and clerks in the profession. The membership was making steady improvement, and the committee would continue a moderate publicity effort. The motion for the adoption of the report and accounts was seconded by Mr. A. G. B. Chittenden (Ashford, Kent), and it was carried. The retiring clerk's committeeman, Mr. F. C. Leaver (Linklaters & Paines) was re-elected, and the chairman reported that Mr. Ian D. Yeaman (Cheltenham) had been reappointed to the committee by the Council of The Law Society. In expressing appreciation of the work being done, Mr. J. W. Kennard (Ashford, Kent) offered some useful suggestions for the committee's consideration. The address of the Fund is Maxwell House, Arundel Street, London, W.C.2. Telephone Temple Bar 8879.

COURT PAPERS

SUPREME COURT OF JUDICATURE

TRINITY SITTINGS, 1948

COURT OF APPEAL AND HIGH COURT OF JUSTICE

CHANCERY DIVISION

	Rota of Registrars in attendance on Group A			
Date	Emergency Rota	Appeal Court I	Mr. Justice Vaisey *Witness*	Mr. Justice Roxburgh *Non-Witness*
Mon., June 21	Mr. Hay	Mr. Jones	Mr. Jones	Mr. Andrews
Tues., ,, 22	Farr	Reader	Reader	Jones
Wed., ,, 23	Blaker	Hay	Hay	Reader
Thurs., ,, 24	Andrews	Farr	Farr	Hay
Fri., ,, 25	Jones	Blaker	Blaker	Farr
Sat., ,, 26	Reader	Andrews	Andrews	Blaker

	Group A		Group B	
Date	Mr. Justice Wynn Parry *Business as listed*	Mr. Justice Romer *Business as listed*	Mr. Justice Jenkins *Witness*	Mr. Justice Harman *Non-Witness*
Mon., June 21	Mr. Reader	Mr. Blaker	Mr. Hay	Mr. Farr
Tues., ,, 22	Hay	Andrews	Farr	Blaker
Wed., ,, 23	Farr	Jones	Blaker	Andrews
Thurs., ,, 24	Blaker	Reader	Andrews	Jones
Fri., ,, 25	Andrews	Hay	Jones	Reader
Sat., ,, 26	Jones	Farr	Reader	Hay

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